

FILEDUnited States District Court
Albuquerque, New MexicoMitchell R. Elfers
Clerk of Court

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURTfor the
District of New MexicoUnited States of America
v.
JAMES MATTHEW EDWARD RIVERA
(year of birth 1994)Case No. **23mj1183**

Defendant(s)


CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 24, 2023 in the county of Bernalillo in the
District of New Mexico, the defendant(s) violated:*Code Section*18 U.S.C. § 111
18 U.S.C. § 924(c)*Offense Description*Assault on a Federal Officer
Discharge of a firearm in the commission of a crime of violence.

This criminal complaint is based on these facts:

See attached affidavit.

☒ Continued on the attached sheet.
 #345
 Complainant's signature
 Jessica Carreon/ FBI Violent Crime Task Force
 Printed name and title

Telephonically sworn and electronically signed.

Date: 07/25/2023City and state: Albuquerque, New Mexico

 Judge's signature
 Hon. Kirtan Khalsa, U.S. Magistrate Judge
 Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

I, Jessica Carreon, being duly sworn, depose and say:

INTRODUCTION AND CRIMINAL CHARGES

1. I am a Task Force Officer with the Federal Bureau of Investigation (FBI) and am recognized as a “federal law enforcement officer” within the meaning of Rule 41 of the Federal Rules of Criminal Procedure. I have been a sworn law enforcement officer for ten years, serving as a Bernalillo County Sheriff’s Office (BCSO) field services deputy, and a violent crimes and homicide detective. I am currently assigned as a Task Force Officer with the FBI Violent Crime Task Force (VCTF)¹ of the Albuquerque Division. I have been assigned to this position since February of 2020. In my current assignment, I primarily investigate violent repeat offenders, federal drug and firearm related crimes, kidnappings, carjackings, bank robberies, and other federal offences.

2. My investigative experience includes interviewing subjects, victims, and witnesses; conducting surveillance; executing search and arrest warrants; managing cooperating sources; analyzing records; and working on joint investigations and operations with law enforcement officers from other federal, state, and local agencies. This affidavit is based on my personal observations, my training and experience, information obtained from other law enforcement officers and witnesses, and records I have reviewed. This affidavit does not set forth all of my knowledge nor summarize all of the investigative efforts in this investigation in this on-going investigation. Rather, this affidavit sets forth the information necessary to establish probable cause for the requested warrant.

¹ The VCTF is a FBI-sponsored task force comprised of investigations from the FBI, Drug Enforcement Administration, New Mexico State Police, Albuquerque Police Department, Bernalillo County Sheriff’s Office, and Valencia County Sheriff’s Office. The VCTF primarily focuses on violent repeat offenders engaged in federal firearm or drug related crimes.

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

3. This affidavit is in support of a criminal complaint and an application for a warrant to arrest **JAMES MATTHEW EDWARD RIVERA (RIVERA)**, year of birth (“YOB”) 1994, who I have probable cause to believe committed violations of 18 U.S.C. § 111 – Assaulting a Federal Officer, and 18 U.S.C. § 924(c) – Use of a firearm in the commission of a crime of violence.

STATEMENT OF PROBABLE CAUSE

4. On July 24, 2023, at approximately 11:30AM, federally sworn officers of the United States Marshals Service (USMS) and members of their Southwest Investigative Fugitive Team (SWIFT) began a surveillance and arrest operation to locate and arrest fugitive **RIVERA**. **RIVERA** had previously pled guilty in a state criminal case charging Criminal Sexual Penetration in the 3rd Degree and had violated the conditions of his parole by cutting off his ankle monitor. USMS investigations indicated **RIVERA** knew of his active warrant and was taking steps to flee the state of New Mexico and had voiced statements to the effect of “I’m not going back to prison no matter what.”

5. USMS personnel located **RIVERA**’s vehicle (a white Ford Mustang) in the vicinity of **RIVERA**’s sister’s residence (located at 1400 Pennsylvania St NE in Albuquerque) and initiated surveillance operations. All USMS and task force personnel were wearing issued body armor with law enforcement markings. At approximately 1:00PM, **RIVERA** was observed leaving the apartment complex and standing near the edge of the apartment’s parking lot. USMS personnel reported **RIVERA** appeared to be acting skittish, repeatedly exiting, and returning to the apartment complex. **RIVERA** was positively identified by USMS personnel due to very distinctive tattoos and facial piercings. USMS personnel briefed an arrest plan (using radio communications) that **RIVERA** would be taken into custody via an “open air arrest” if he appeared to be attempting to

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

enter his vehicle and leave the premises. USMS Vehicle 1 (a Ford Expedition) was then parked nosed in next to **RIVERA**'s white Ford Mustang, which was backed into a parking space.

6. Upon **RIVERA**'s third exit from the apartment complex, his demeanor appeared to have changed and according to USMS personnel **RIVERA** was "walking with a purpose." **RIVERA** appeared to be holding a black shirt in his hands and headed directly for the white Ford Mustang. USMS personnel initiated the open-air arrest with USMS Deputy John Doe exiting the driver's door of USMS Vehicle 1 as **RIVERA** reached the driver's side front bumper of the white Mustang. USMS Deputy John Doe, who was wearing visible law enforcement markings, verbally announced his presence at which point Deputy John Doe heard the loud crack of a gunshot, drew his weapon, and returned fire, striking **RIVERA**, who then attempted to flee the scene on foot. USMS personnel observed a discarded firearm on the pavement of the parking lot near **RIVERA** and placed **RIVERA** under arrest. In addition, USMS personnel provided medical treatment to **RIVERA**'s injuries until emergency medical services arrived and **RIVERA** was taken to the University of New Mexico Hospital (UNMH). While **RIVERA** was being taken into custody and medically treated by USMS personnel, he stated, "I'm sorry. I'm sorry." In addition, while awaiting surgery at UNMH **RIVERA** stated, "This is the consequence of my actions" and "I wish you guys would've killed me."

7. Post-incident review of the scene showed a probable bullet impact to the driver's door of Vehicle 1 from which USMS Deputy John Doe exited prior attempting to affect the open-air arrest of **RIVERA**. The discarded firearm was also recovered from the scene by New Mexico State Police (NMSP) evidence recovery personnel.

8. NMSP Detectives located a Ring doorbell camera on the western wall of 1400 Pennsylvania Ave NE. The Ring doorbell captured the incident in a video which is approximately

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

two minutes and seven seconds long. At 00:04, **RIVERA** is seen exiting the building wearing khaki pants, a blue shirt, and holding a black shirt covering his right arm. **RIVERA** is seen walking through the parking lot toward the white Mustang that is backed into a parking spot, with Vehicle 1 parked in the parking spot to the left of the Mustang. **RIVERA** can then be seen initially walking directly toward the Mustang before fanning out his approach. The video then captures someone yelling, although it is difficult to make out what is said, and then a gunshot is heard. The scene evidence indicates this round was fired by **RIVERA** and struck the driver's side door where Deputy John Doe was standing. Through branches visible at the left side of the video, a car door for a separate USMS vehicle, Vehicle 2, is seen opening and the word "Police" is heard. **RIVERA** then flees on foot and a volley of gunfire is heard. As **RIVERA** is running westbound through the parking lot, he is observed dropping a black "L" shaped item consistent with a firearm. Simultaneously, **RIVERA** is struck in the left arm, while running and falls to the ground at the entrance of the apartment parking lot. It was later confirmed the item dropped was a black Kel-Tec .380 firearm, displaying serial number H4A64. NMSP collected the firearm and submitted it into evidence.

9. Therefore, based on the video of the incident, statements from Deputy John Doe, the location of the bullet impact, the recovery of the firearm, and **RIVERA**'s statements, I have probable cause to believe that **RIVERA** fired at least one shot at Deputy John Doe immediately after he exited Vehicle 1 and announced law enforcement presence.

10. USMS Deputy John Doe is a sworn federal officer in the United States Marshal Service (a federal law enforcement agency), and thereby meets the definition of a "federal officer" as put forth in 18 U.S.C. § 1114. Deputy John Doe was engaged in the performance of his official duties at the time of this incident.

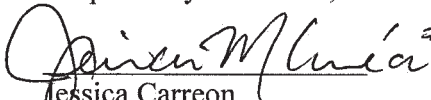
AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT AND ARREST WARRANT

CONCLUSION


11. Based on the information contained herein, I believe there is probable cause to charge **RIVERA** with violations of 18 U.S.C. § 111 – Assaulting a Federal Officer and 18 U.S.C. § 924(c), that being use of a firearm in commission of a crime of violence.

12. Supervisory Assistant United States Attorney Sarah Mease reviewed this affidavit for legal sufficiency.

Respectfully submitted,

 #345
Jessica Carreon
FBI Task Force Officer

ELECTRONICALLY SUBMITTED AND TELEPHONICALLY SWORN
TO ME ON JULY 25, 2023:


HONORABLE KIRTAN KHALSA
UNITED STATES MAGISTRATE JUDGE
DISTRICT OF NEW MEXICO